SUMMARY

The economic recovery legislation will infuse the nation's small businesses- which comprise 99 percent of American industry and employ half of the private sector workforce. The provisions in the bill put fresh capital in the hands of small business owners, which will result in the creation or retention of approximately 400,000 jobs, more than 15 percent of the jobs the economy shed last year; and also targets $25 billion in tax relief to small businesses, which will also helps spur growth. These provisions are designed to help entrepreneurs not only survive the recession, but to create jobs and put us back on a path of economic growth.

In recent months, smaller firms have struggled with plunging consumer demand, while also finding that needed credit has been shut off in frozen financial markets. The small business provisions in the legislation are designed to help address these problems with new authorities for the Small Business Administration and targeted tax relief for small businesses.

SMALL BUSINESS TAX INCENTIVES AND SUPPORT TO CREATE JOBS AND SPUR INVESTMENT ($25 BILLION OVER 10 YEARS AND CREATING APPROXIMATELY 400,000 JOBS)

Extension of bonus depreciation. Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off fifty percent of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2008 for use in the United States. The bill would extend this temporary benefit for capital expenditures incurred in 2009. Total Cost: $5.07 billion

Extension of enhanced small business expensing. In order to help small businesses quickly recover the cost of certain capital expenses, small business taxpayers may elect to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Until the end of 2010, small business taxpayers are allowed to write-off up to $125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed $500,000 (indexed for inflation). Last year, Congress temporarily increased the amount that small businesses could write-off for capital expenditures incurred in 2008 to $250,000 and increased the phase-out threshold for 2008 to $800,000. The bill would extend these temporary increases for capital expenditures incurred in 2009. Total Cost: $41 million

5-year carryback of net operating losses. Under current law, net operating losses may be carried back to the two years before the year that the loss arises (the “carryback period”) and carried forward to each of the succeeding twenty years after the year that the loss arises (the “carryforward period”). Losses that are carried back may generally only be used to offset ninety percent (90%) of a taxpayer’s alternative minimum tax liability. For 2008, the bill extends the carryback from two years to five years but limits it to small businesses with gross receipts of $15 million or less. Total Cost: $947 million

By allowing businesses to improve cash flow by providing a 5-year carryback of net operating losses (NOLs), the bill would allow businesses to write off 90% of losses incurred in 2008 and 2009 against taxes assessed over the previous five years (current law limits NOL carryback to the previous two years). This would not be available to companies that have benefited under the TARP.

Delayed Recognition of Certain Cancellation of Debt Income. Under current law, a taxpayer generally has income where the taxpayer cancels or repurchases its debt for an amount less than its adjusted issue price. The amount of cancellation of debt income (“CODI”) is the excess of the old debt’s adjusted issue price over the repurchase price. Certain businesses will be allowed to recognize CODI over 10 years (defer tax on CODI for the first four or five years and recognize this income ratably over the following five taxable years) for specified types of business debt repurchased by the business after December 31, 2008 and before January 1, 2011. Total Cost: $1.622 billion
Incentives to hire unemployed veterans and disconnected youth. Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first $6,000 of wages paid to employees of one of nine targeted groups. The bill would create two new targeted groups of prospective employees: (1) unemployed veterans; and (2) disconnected youth. An individual would qualify as an unemployed veteran if they were discharged or released from active duty from the Armed Forces during 2008, 2009 or 2010 and received unemployment compensation for more than four weeks during the year before being hired. An individual qualifies as a disconnected youth if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months.

Repeal of Treasury Section 382 Notice. Last year, the Treasury Department issued Notice 2008-83, which liberalized rules in the tax code that are intended to prevent taxpayers that acquire companies from claiming losses that were incurred by the acquired company prior to the taxpayer’s ownership of the company. The bill would repeal this Notice prospectively. This Provision is expected to raise $6.977 billion

Extension of Monetization of Accumulated AMT and R&D Credits in Lieu of Bonus Depreciation: Extends the provision contained in the Foreclosure Prevent Act of 2008 and allows AMT and loss taxpayers in 2009 to receive 20 percent of the value of their old AMT or research and development (R&D) credits to the extent such taxpayers invest in assets that qualify for bonus depreciation. The amount is capped at the lesser of six percent of outstanding and unused AMT and R&D credits or $30 million. Total Cost: $805 million

Small Business Capital Gains: Allows an exclusion for individuals on the gain from the sale of certain small business stock held for more than five years.
This change is for stock issued after the date of enactment and before January 1, 2011. Allows a 75 percent exclusion for individuals on the gain from the sale of certain small business stock held for more than five years. Total Cost: $829 million

S Corp Holding Period: Under current law, if a taxable corporation converts into an S corporation, the conversion is not a taxable event. However, following such a conversion, an S corporation must hold its assets for ten years in order to avoid a tax on any built-in gains that existed at the time of the conversion. The bill would temporarily reduce this holding period from ten years to seven years for sales occurring in 2009 and 2010. Temporarily shortens the holding period of assets subject to the built-in gains tax from 10 years to seven years. Total Cost: $415 million

Industrial Development Bonds: Modernizes certain tax exempt qualified small issue bonds or industrial development bonds (IDBs) for facilities that create or manufacture intangible property. The proposal also clarifies which physical components of any given facility are eligible for such tax exempt financing. Total Cost: $203 million

Increase in New Markets Tax Credit: Under current law, there are $3.5 billion of New Markets Tax Credits (NMTC) available for each of 2008 and 2009. Bill authorizes additional funding for the 2008 and 2009 allocation rounds. Tax credits for the 2009 allocation round would be allowed against the alternative minimum tax. Total Cost: $815 million.

Modification to the Rules for Tax-Exempt Interest Expense Relating to Financial Institutions: Changes the determination of the portion of interest expense that is allocable to investments in tax-exempt municipal bonds. In addition, the proposal increases the small issuer exception. Changes the determination portion by excluding investments in tax-exempt municipal bonds issued during 2009 and 2010 to the extent that these investments constitute less than two percent (2 percent) of the average adjusted bases of all the assets of the financial institution. In addition, the proposal increases the small issuer exception to $30 million and applies the $30 million calculation at the ultimate borrower level if the ultimate borrower would separately qualify for the exception. Total Cost: $3.2 billion

Build America Bonds: The proposal provides State and local governments with a new tax credit bond option for infrastructure projects. Allows the State or local government to elect to receive a direct payment from the Federal government equal to the subsidy that would have otherwise been delivered through the Federal tax credit. Total Cost: $4.34 billion

Temporary small business estimated tax payment relief: The bill reduces the 2009 required estimated tax payments for certain small businesses. This provision has been estimated to have no revenue effect over 10 years.

SMALL BUSINESS TAX INCENTIVES FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY TO SPUR ENERGY SAVINGS AND CREATE GREEN JOBS ($19.9 BILLION OVER 10 YEARS)

Treasury Department energy grants in lieu of tax credits. Under current law, taxpayers are allowed to claim a production tax credit for electricity produced by certain renewable energy facilities and an investment tax credit for certain renewable energy property. These tax credits help attract private capital to invest in renewable energy projects. Current economic conditions have severely undermined the effectiveness of these tax credits. As a result, the bill would allow taxpayers to receive a grant from the Treasury Department in lieu of tax credits. This grant will operate like the current-law investment tax credit. The Treasury Department will issue a grant in an amount equal to thirty percent (30%) of the cost of the renewable energy facility within sixty days of the facility being placed in service or, if later, within sixty days of receiving an application for such grant. This proposal is estimated to cost $5 million over 10 years.

Long-term extension and modification of renewable energy production tax credit. The bill would extend the placed-in-service date for wind facilities for three years (through December 31, 2012). The bill would also extend the placed-in-service date for three years (through December 31, 2013) for certain other qualifying facilities: closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; waste-to-energy; and marine renewable facilities. This proposal is estimated to cost $13.143 billion over 10 years.

Temporary election to claim the investment tax credit in lieu of the production tax credit. Under current law, facilities that produce electricity from solar facilities are eligible to take a thirty percent (30%) investment tax credit in the year that the facility is placed in service. Facilities that produce electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable facilities are eligible for a production tax credit. The production tax credit is payable over a ten-year period. Because of current market conditions, it is difficult for many renewable projects to find financing due to the uncertain future tax positions of potential investors in these projects. The bill would allow facilities to elect to claim the investment tax credit in lieu of the production tax credit. This proposal is estimated to cost $285 million over 10 years.

Repeal subsidized energy financing limitation on the investment tax credit. Under current law, the investment tax credit must be reduced if the property qualifying for the investment tax credit is also financed with industrial development bonds or through any other Federal, State, or local subsidized financing program. The bill would repeal this subsidized energy financing limitation on the investment tax credit in order to allow businesses and individuals to qualify for the full amount of the investment tax credit even if such property is financed with industrial development bonds or through any other subsidized energy financing. The cost of this proposal is included in the estimated cost of the next provision.

Removal of dollar limitations on certain energy credits. Under current law, businesses are allowed to claim a thirty percent (30%) tax credit for qualified small wind energy property (capped at $4,000). Individuals are allowed to claim a thirty percent (30%) tax credit for qualified solar water heating property (capped at $2,000), qualified small wind energy property (capped at $500 per kilowatt of capacity, up to $4,000), and qualified geothermal heat pumps (capped at $2,000). The bill would repeal the individual dollar caps. As a result, each of these properties would be eligible for an uncapped thirty percent (30%) credit. This proposal is estimated to cost $872 million over 10 years.

Clean renewable energy bonds (“CREBs”). The bill authorizes an additional $1.6 billion of new clean renewable energy bonds to finance facilities that generate electricity from the following resources: wind; closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; marine renewable; and trash combustion facilities. This $1.6 billion authorization will be subdivided into thirds: 1/3 will be available for qualifying projects of State/local/tribal governments; 1/3 for qualifying projects of public power providers; and 1/3 for qualifying projects of electric cooperatives. This proposal is estimated to cost $578 million over 10 years.

Qualified energy conservation bonds. The bill authorizes an addition $2.4 billion of qualified energy conservation bonds to finance State, municipal and tribal government programs and initiatives designed to reduce greenhouse gas emissions. The bill would also clarify that qualified energy conservation bonds may be issued to make loans and grants for capital expenditures to implement green community programs. The bill also clarifies that qualified energy conservation bonds may be used for programs in which utilities provide ratepayers with energy-efficient property and recoup the costs of that property over an extended period of time. This proposal is estimated to cost $803 million over 10 years.

Tax credits for energy-efficient improvements to existing homes. The bill would extend the tax credits for improvements to energy-efficient existing homes through 2010. Under current law, individuals are allowed a tax credit equal to ten percent (10%) of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during the taxable year. This tax credit is capped at $50 for any advanced main air circulating fan, $150 for any qualified natural gas, propane, oil furnace or hot water boiler, and $300 for any item of energy-efficient building property. For 2009 and 2010, the bill would increase the amount of the tax credit to thirty percent (30%) of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements during the taxable year. The bill would also eliminate the property-by-property dollar caps on this tax credit and provide an aggregate $1,500 cap on all property qualifying for the credit. The bill would update the energy-efficiency standards of the property qualifying for the credit. This proposal is estimated to cost $2.034 billion over 10 years.

Tax credits for alternative refueling property. The alternative refueling property credit provides a tax credit to businesses (e.g., gas stations) that install alternative fuel pumps, such as fuel pumps that dispense E85 fuel, electricity, hydrogen, and natural gas. For 2009 and 2010, the bill would increase the 30% alternative refueling property credit for businesses (capped at $30,000) to 50% (capped at $50,000). Hydrogen refueling pumps would remain at a 30% credit percentage; however, the cap for hydrogen refueling pumps will be increased to $200,000. In addition, the bill would increase the 30% alternative refueling property credit for individuals (capped at $1,000) to 50% (capped at $2,000). This proposal is estimated to cost $54 million over 10 years.

Plug-in electric drive vehicle credit. The bill modifies and increases a tax credit passed into law at the end of last Congress for each qualified plug-in electric drive vehicle placed in service during the taxable year. The base amount of the credit is $2,500. If the qualified vehicle draws propulsion from a battery with at least 5 kilowatt hours of capacity, the credit is increased by $417, plus another $417 for each kilowatt hour of battery capacity in excess of 5 kilowatt hours up to 16 kilowatt hours. Taxpayers may claim the full amount of the allowable credit up to the end of the first calendar quarter in which the manufacturer records its 200,000th sale of a plug-in electric drive vehicle. The credit is reduced in following calendar quarters. The credit is allowed against the alternative minimum tax (AMT). The bill also restores and updates the electric vehicle credit for plug-in electric vehicles that would not otherwise qualify for the larger plug-in electric drive vehicle credit and provides a tax credit for plug-in electric drive conversion kits. This proposal is estimated to cost $2.002 billion over 10 years.

Addition of permanent sequestration requirement to CO2 capture tax credit. Last year, Congress provided a $10 credit per ton for the first 75 million metric tons of carbon dioxide captured and transported from an industrial source for use in enhanced oil recovery, and $20 credit per ton for carbon dioxide captured and transported from an industrial source for permanent storage in a geologic formation. Facilities were required to capture at least 500,000 metric tons of carbon dioxide per year to qualify. The bill would require that any taxpayer claiming the $10 credit per ton for carbon dioxide captured and transported for use in enhanced oil recovery must also ensure that such carbon dioxide is permanently stored in a geologic formation. This proposal is estimated to have a negligible revenue effect.

Parity for transit benefits. Current law provides a tax-free fringe benefit employers can provide to employees for transit and parking. Those benefits are set at different dollar amounts. This provision would equalize the tax-free benefit employers can provide for transit and parking. The proposal sets both the parking and transit benefits at $230 a month for 2009, indexes them equally for 2010, and clarifies that certain transit benefits apply to federal employees. This provision is estimated to cost $192 million over ten years.

SEE BELOW FOR FURTHER ASSISTANCE RELATED TO SMALL BUSINESS TAX AND SPENDING PROVISIONS (in millions)

Businesses will be able to more quickly deduct the cost of investments in plant and equipment from their taxable income: $5,074

Contact Media IRS
1400 N. Providence Rd.
Media, PA 19063
(610) 891-6002
Applies to 2010 and 2011 tax returns. http://www.irs.gov/businesses/small/index.html

Businesses will be allowed to recover alternative minimum tax and research and development credits faster: $805
Contact Media IRS
1400 N. Providence Rd.
Media, PA 19063
(610) 891-6002
Applies to property purchased in 2009; applies to 2010 tax return. http://www.irs.gov/businesses/small/index.html

Small businesses will be allowed to write-off up to $250,000 of capital expenditures in the year of acquisition $41 Applies to purchases made in 2009; applies to 2010 tax return. http://www.irs.gov/businesses/small/index.html

Unprofitable small businesses with annual receipts of less than $15 million can recoup taxes paid in the past five years, up from two $947 The bill extends the carryback from two years to five years but limits it to small businesses with gross receipts of $15 million or less; Begins in 2010 tax return. http://www.irs.gov/businesses/small/index.html

Companies will be allowed to defer taxes for five years on several transactions aimed at restructuring balance sheets, and repay the taxes over the following five years $1,622 Applies to debt repurchase by the business after December 31, 2008 and before January 1, 2011 http://www.irs.gov/businesses/small/index.html

Businesses will be able to claim a tax credit for 40% of the first $6000 of wages paid to unemployed veterans or 16-25-year-olds hired $231 Applies to 2009 and 2010 tax years http://www.irs.gov/businesses/small/index.html

Small businesses will be able to exclude 75% of the gain from the sale of some stock held more than five years $829 This change is for stock issued after the date of enactment and before January 1, 2011 http://www.irs.gov/businesses/small/index.html

Taxable corporations converting into S corporations will have a 7-year holding period for assets subject to built-in gains tax, from 10 years $415 The bill would temporarily reduce this holding period from ten years to seven years for sales occurring in 2009 and 2010 http://www.irs.gov/businesses/small/index.html

Restoring tougher rules on taxpayers claiming losses incurred by a company before they bought it is projected to raise money Raises $6.977 billion Permanent Repeal of tax rules which liberalized rules in the tax code that are intended to prevent taxpayers that acquire companies from claiming losses that were incurred by the acquired company prior to the taxpayer’s ownership of the company. http://www.irs.gov/businesses/small/index.html

Manufacturing facilities producing "intangible property" such as patents can qualify for industrial development bonds $203 Applies to bonds issued in 2009 and 2010. http://www.irs.gov/businesses/small/index.html

Facilities making advanced energy property may be able to claim a new 30% investment tax credit $1,647 Extended from 2010 to 2014. http://www.irs.gov/businesses/small/index.html